BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

ANTHONY LEE Claimant	)	
VS.	)	Docket No. 157,744
BOEING MILITARY AIRPLANES Respondent	)	
AND	)	
AETNA CASUALTY & SURETY CO. Insurance Carrier	)	
AND	)	
KANSAS WORKERS COMPENSATION FUND	)	

ORDER

ON the 25th day of January, 1994, the application of the claimant for review by the Workers Compensation Appeals Board of an amended Award entered by Administrative Law Judge Shannon S. Krysl dated December 17, 1993, came on for oral argument by telephone conference.

APPEARANCES

Claimant appeared by his attorney, Michael L. Snider of Wichita, Kansas. Respondent and insurance carrier appeared by their attorney, Frederick L. Haag of Wichita, Kansas. The Kansas Workers Compensation Fund appeared by its attorney, Steven L. Foulston of Wichita, Kansas. There were no other appearances.

RECORD

The record as specifically set forth in the Award of the Administrative Law Judge dated December 17, 1993, is hereby adopted by the Appeals Board.

STIPULATIONS

The stipulations are herein adopted by the Appeals Board as specifically set forth in the Award of the Administrative Law Judge dated December 17, 1993.

ISSUES

The issues presented by oral argument for decision by the Appeals Board are:

(1) What is the nature and extent of claimant's disability?

(2) What is the liability, if any, of the Kansas Workers Compensation Fund?

The claimant's average weekly wage was an issue considered and decided by the Administrative Law Judge. This issue was not raised before the Appeals Board and the Appeals Board adopts the finding of the Administrative Law Judge that the claimant's average weekly wage for calculation of benefits in this case is $863.76.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record and the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

(1) While working for the respondent, Boeing Military Airplanes, the claimant, Anthony Lee, sustained a personal injury by accident arising out of and in the course of his employment. As a direct result of such personal injury, claimant has suffered a seven and one-half percent (7.5%) permanent partial general functional disability from the date of his accident of June 27, 1991, to the date of his last day worked for the respondent of June 14, 1993. Claimant was laid off from his employment with the respondent on June 14, 1993. Additionally, as a direct result of such personal injury, the claimant, effective June 15, 1993, and thereafter has suffered a thirty-seven percent (37%) permanent partial general work disability.

The claimant commenced his employment with the respondent on February 28, 1989. His regular job in the 747 wheel well department required him to work with 30-pound hand and pneumatic tools. On June 27, 1991, he twisted while using a squeeze, a large hand tool, and immediately felt pain in his back. He reported the injury to his supervisor and was immediately sent to Boeing Central Medical where he complained of pain in his dorsal spine. He was first seen by Kenneth Dale Zimmerman, M.D., an occupational medicine physician for Boeing Central Medical, on July 1, 1991, for pain in his dorsal spine and later that same month he also complained about pain in his low back. Dr. Zimmerman referred the claimant to Paul Lesko, M.D., a board-certified orthopedic surgeon in Wichita, Kansas, on July 22, 1991. Dr. Lesko's diagnosis was parathoracic and lumbar sprain with radicular symptoms. Dr. Lesko prescribed pain and anti-inflammatory medication and started the claimant on a physical therapy treatment program. Also, Dr. Lesko took the patient off work from July 22, 1991, until October 14, 1991. Trigger point injections were prescribed and administered. The claimant's thoracic back pain improved but his lower back pain became more symptomatic with radiculopathy in the left leg. An MRI study of the lumbar spine was ordered on August 20, 1991, which showed L4-5 degenerative disc change with dehydration, space narrowing, disc bulging and compression of the caudal sac and transversing nerve roots at this level, more marked on the left than the right. Dr. Lesko returned the claimant to regular work on October 14, 1991, without restrictions and with no permanent functional disability rating. Dr. Lesko did not have to perform surgery because the L4-5 disc was not shown as herniated. He opined that claimant's strain sustained in

June of 1991, should have resolved itself by the time that he returned the claimant to work in October of 1991.

Even though Dr. Lesko released the claimant to work, Dr. Zimmerman at Boeing Central Medical, continued to keep him off work. On October 24, 1991, Dr. Zimmerman referred the claimant to Eustaqio Abay, M.D., a neurosurgeon in Wichita, Kansas, and later to P.O. Odulio, M.D., a physiatrist in Wichita, Kansas, for evaluation and treatment. Dr. Abay did not consider the claimant as a surgical candidate and thus referred the claimant back to Dr. Zimmerman for further conservative treatment. Dr. Odulio placed the claimant in physical therapy and had the claimant complete a functional capacity evaluation on January 2, 1992. She then referred the claimant back to Dr. Zimmerman recommending permanent restrictions as noted by the functional capacity test and a work hardening program.

Dr. Zimmerman last examined the claimant on January 25, 1992. He released him to return to work at that time with the following permanent restrictions:

a. Occasional bending;
b. Occasional level lift of 75 pounds;
c. Frequent level lift of 60 pounds;
d. Pushing of 67 pounds;
e. Pulling of 65 pounds.

Dr. Zimmerman opined that the claimant has a two percent (2%) impairment to his dorsal spine and a five percent (5%) to his lumbar spine as a result of the injury he received on June 27, 1991. The claimant's overall functional impairment combines to a seven percent (7%) whole body impairment.

The claimant returned to work at the frame shop on January 26, 1992, but only worked for two weeks. He could not complete that job because of the excessive bending requirements. Claimant was moved to a light-duty job working with small hand tools and frames. He satisfactorily performed this job until he was laid off on June 14, 1993.

The claimant's testimony at the regular hearing, July 28, 1993, was that his back is constantly hurting him; he cannot jog, he has to walk slowly; and, he is unable to lift anything above approximately 25 pounds which he does by squatting and lifting with his legs. After returning to the light-duty job for the respondent, the claimant's back continued to get worse because of the twisting and bending requirements of the job. Claimant is currently working in a night club once or twice a week netting approximately $75.00 per performance doing Karaoke shows.

At the request of the claimant's attorney, Lawrence R. Blaty, M.D., board-certified in physical medicine rehabilitation, examined and evaluated the claimant on June 24, 1993. Dr. Blaty personally took a medical history from the claimant and performed a physical examination. He also reviewed medical records pertaining to the treatment of the claimant's injuries. Included in the medical records were MRI reports relating to the claimant's spine, dated August 20, 1991, and September 9, 1991; and a bone scan of the claimant's cervical, thoracic and lumbar spine, dated September 9, 1991.

During Dr. Blaty's examination, claimant complained of pain mostly in his left lower back area and hip. Such pain radiated from the claimant's gluteal area to his left inner thigh and down to the knee. Occasional pain is experienced on the claimant's right side

and sharp stabbing pains in the mid-back are experienced with bending and increased activity.

Even though Dr. Paul Lesko interpreted the MRI report of the claimant's lumbar spine as being normal, Dr. Blaty opined that the MRI report was not normal because it identified both a bulging disc and compression of the caudal sac. Dr. Blaty suggested that these findings were not significant to Dr. Lesko because he is a surgeon and such condition does not require surgery.

After Dr. Blaty's examination of the claimant, he concluded that the claimant has chronic low back strain involving the interspinous ligaments and low back muscles which resulted from his work activities while employed by the respondent. In his opinion, claimant had reached maximum medical improvement but if the claimant continued performing work activities that required repetitive bending and twisting, his back would continue to be symptomatic.

With respect to functional impairment, Dr. Blaty opined that the claimant, as a result of his work-connected injury, has a permanent partial functional impairment of eight percent (8%) to the body as a whole. Dr. Blaty went on to conclude that claimant's low back injury restricted him to function at or below the medium to light physical demand level. Accordingly, Dr. Blaty recommended the following restrictions for the claimant:

a. Level lift of no more than forty (40) pounds;
b. No lifting while bending or twisting;
c. Occasional lifting of forty (40) pounds;
d. No lifting on a frequent basis of more than twenty (20) pounds; and,
e. Twisting and bending, with no weight, not more than 3 to 4 times per hour.

Jerry D. Hardin, Human Resource Consultant, testified on behalf of the claimant, for purposes of evaluating claimant for work disability. Mr. Hardin personally interviewed the claimant and obtained information from him concerning his education, training, and past work experience. He reviewed medical records and restrictions contained in those records from Dr. Zimmerman of Boeing Central Medical; Lawrence R. Blaty, M.D.; P. Odulio, M.D.; E. O. Abay, II, M.D.; and, Paul D. Lesko, M.D.

Utilizing Dr. Zimmerman's restrictions, it was Mr. Hardin's opinion that the claimant's ability to perform work in the open labor market had been reduced by twenty-five to thirty percent (25%-30%). With respect to Dr. Blaty's restrictions, Mr. Hardin opined that claimant's ability to perform work in the open labor market has been reduced by fifty-five to sixty percent (55%-60%). Mr. Hardin did not give an opinion concerning labor market loss or wage loss in reference to Dr. Paul Lesko's medical records. Dr. Lesko did not place permanent restrictions on the claimant and returned him to his regular employment. Therefore, there would be no labor market loss or wage loss taking into consideration of Dr. Lesko's opinion.

In regard to claimant's ability to earn comparable wages, Mr. Hardin compared claimant's pre-injury wage that was given to him of $746.00 to an estimated $350.00 per week post-injury wage and concluded that the claimant's ability to earn comparable wages in the open labor market had been reduced by fifty-three percent (53%). Mr. Hardin's opinions concerning the claimant's loss of ability to perform work in the open labor market and to earn comparable wages were based upon his personal interview with the claimant,

medical restrictions, education, training and experience, utilizing his twenty-four years experience in the job placement field, the Dictionary of Occupational Titles, Fourth Edition, Revised 1991; Kansas Wage Survey 1992-1993; Handbook for Analyzing Jobs; Kansas Average Annual Covered Employment — By Industry Division; and Labor Market Plus 1992 computer program.

The respondent referred claimant to Karen C. Terrill, M.S., a rehabilitation consultant, on September 10, 1993, concerning her opinion as to claimant's loss of ability to perform work in the open labor market and to earn comparable wages. Ms. Terrill has had extensive experience in testifying in workers compensation, social security disability, and personal injury cases. Ms. Terrill met with the claimant personally and obtained his work and educational history. Additionally, she was supplied with wage information concerning the claimant; medical records from Dr. Blaty, Dr. Campbell, Dr. Abay, and Dr. Lesko; and, the deposition of Jerry Hardin, Human Resource Consultant. She also utilized the Dictionary of Occupational Titles; Classification of Jobs; Kansas Wage Survey, 1990-91 edition; and the Labor Market Access Plus computer program to formulate her opinion.

Utilizing Dr. Blaty's restrictions, it was Ms. Terrill's opinion that claimant's ability to perform work in the open labor market had been reduced by twenty-three to twenty-five percent (23%-25%). With respect to Dr. Zimmerman's restrictions of Boeing Central Medical, Ms. Terrill opined that the claimant's ability to perform work in the open labor market had been reduced by five to ten percent (5%-10%).

In regard to loss of comparable wage, Ms. Terrill concluded that since the claimant had returned to work for the respondent and earned a comparable wage for nearly a year and that he had the ability to be recalled to Boeing and perform the job that he was laid off from, the claimant's ability to earn a comparable wage as a result of his work-connected injury is zero (0).

The Administrative Law Judge found that the claimant had met his burden of proof in establishing work disability. A fourteen percent (14%) work disability was awarded by averaging labor market loss opinions of both Jerry Hardin and Karen Terrill for twenty-eight percent (28%) labor market loss with Karen Terrill's zero percent (0%) loss of comparable wage opinion. The Administrative Law Judge found that the claimant had worked at a comparable wage for one and one-half years and was separated from his job due to layoff and not for medical reasons. The Administrative Law Judge then applied the Hughes rationale and gave both factors equal weight to arrive at the fourteen percent (14%) work disability.

It is the respondent's position, in the case at hand, that the claimant has failed to rebut the presumption contained in K.S.A. 1992 Supp. 44-510e(a) which provides:

> "There shall be a presumption that the employee has no work disability if the employee engages in any work for wages comparable to the average gross weekly wage that the employee was earning at the time of the injury."

Respondent points out that the claimant was injured on June 27, 1991, and received medical treatment provided by the respondent for his injuries until he was returned to work on January 26, 1992, to a light-duty job at comparable wage. Respondent further contends that the only reason the claimant is not presently working is because he was laid off for economic reasons not connected to his work-related injuries. Accordingly, the respondent argues claimant has failed to rebut the presumption of no work disability and thus the

claimant's permanent partial general disability shall be an award based on the percentage of functional impairment. Dr. Lesko indicated that the claimant had no functional impairment; Dr. Blaty indicated the claimant had eight percent (8%) functional impairment; and, Dr. Zimmerman indicated that the claimant had seven percent (7%) functional impairment. Taking into consideration all of the doctors' opinions in reference to functional impairment, the appropriate award in this case would be a five percent (5%) permanent partial general functional disability. However, the respondent acknowledges the Administrative Law Judge's Award of fourteen percent (14%) is appropriate and is supported by the most credible and persuasive evidence should work disability be warranted.

The claimant argues that he has rebutted the presumption of no work disability after being laid off from his employment by the respondent on June 14, 1993. Because the claimant did return to work at a comparable wage from January 26, 1992, through June 14, 1993, the appropriate award from his date of injury of June 27, 1991, to his date of layoff of June 14, 1993, should be his functional impairment. However, commencing June 15, 1993, claimant has presented persuasive, credible evidence that he has sustained a forty-one percent (41%) work disability as a result of his work-connected injuries that he incurred while employed by the respondent on June 27, 1991. Averaging Ms. Terrill's opinions concerning claimant's loss of ability to perform work in the open labor market of seven and one-half percent (7.5%) and twenty-four percent (24%), with Mr. Hardin's labor market loss of twenty-seven and one-half percent (27.5%) and fifty-seven and one-half percent (57.5%), one arrives at a twenty-nine (29%) reduction in the claimant's ability to perform work in the open labor market. With respect to loss of claimant's ability to earn a comparable wage, it is argued that the most reasonable, credible evidence would be Mr. Hardin's fifty-three percent (53%) figure. Using the Hughes formula of equally weighing both the claimant's loss of ability to perform work in the open labor market of twenty-nine percent (29%) and his loss of ability to earn comparable wage of fifty-three percent (53%), the claimant would be entitled to a forty-one percent (41%) work disability.

The Appeals Board on review of an Award of an Administrative Law Judge has the authority to increase or diminish an award of compensation. K.S.A. 44-551(b)(1). The evidence in this case as to whether or not the light-duty job that the claimant was performing at the time of his layoff on June 14, 1993, was an accommodated or was not an accommodated job is unclear. It is the respondent's position, which he has set forth in his Memorandum, that the claimant's post-injury position was a very real and permanent job. Evidence in the record indicates that the claimant was released and returned to the frame shop to work on January 26, 1992. However, he only worked in the frame shop for two weeks because he could not perform the job as it required excessive bending. The respondent then moved the claimant to a light-duty job using small hand tools and small frames. Karen Terrill, vocational expert, in her report dated September 16, 1993, characterized the claimant's job after returning to work as an accommodated job. Because the respondent returned the claimant to a job, whether accommodated or not, after his injury that paid a comparable wage, the Appeals Board finds that the presumption of no work disability that is contained in K.S.A. 1992 Supp. 44-510(e)(a) applies. Therefore, from the claimant's date of accident of June 27, 1991, until his last day worked of June 14, 1993, the claimant is entitled to a permanent partial functional disability award of seven and one-half percent (7.5%).

With respect to the period following the claimant's layoff from June 14, 1993, the Appeals Board is not persuaded by the respondent's argument that the claimant is not entitled to a work disability because he is not working as a result of an economic layoff.

Respondent argues that since it pays the highest wage in the Wichita/Sedgwick County labor market, any employee of the respondent whether he has a disability or not, suffers a large wage loss when laid off. Respondent's vocational expert, Karen Terrill, is also of the opinion that the claimant has no reduction in his ability to earn a comparable wage in the open labor market as a result of this economic layoff. It is Ms. Terrill's opinion that the claimant was accommodated by the respondent for over a year earning a comparable wage and this demonstrates that he has the ability to return to work earning a comparable wage. As such, he has not suffered any wage loss. Loss of earning power of the workman is the theoretical basis for allowance of compensation. Gutierrez v. Harper Construction Co., 194 Kan. 287, 291, 398 P.2d 278 (1965). Claimant herein has suffered a permanent disability and both treating and evaluating physicians have placed permanent work restrictions and limitations on his ability to perform work as a result of his work-connected injuries. The injuries that the claimant has suffered are a deterrent to him obtaining and retaining work in the open labor market. Daugherty v. National Gypsum Co., 182 Kan. 197, 203, 318 P.2d 1012 (1957). The Appeals Board finds, based on the facts and circumstances in this case, that because an injured claimant now has been forced into the open labor market through no fault of his own, his ability to perform work in the open labor market and to earn comparable wages has been reduced. Even though he earned comparable wages after he returned to work for the respondent, presently the respondent has no job available to him in the open labor market that the claimant has the ability to perform and that pays a comparable wage. Accordingly, as of the date of layoff, the claimant's open labor market does not contain employment opportunities for him to earn comparable wages taking into consideration the claimant's education, training, experience, and physical limitations. See Scharfe v. Kansas State University, 18 Kan. App. 2d 103, 108, 848 P.2d 994 (1992).

The Appeals Board finds and concludes, based on the whole evidentiary record, that the claimant's ability to perform work in the open labor market has been reduced by twenty-nine percent (29%). This represents an average of Jerry D. Hardin's expert opinion and Karen G. Terrill's expert opinion, utilizing both Dr. Blaty's and Dr. Zimmerman's medical restrictions. With regard to the claimant's ability to earn comparable wages, the Appeals Board finds that the claimant's pre-injury stipulated average weekly wage of $863.76 should be compared to a post-injury weekly wage of $475.00. The post-injury wage of $475.00 is arrived at by using Mr. Hardin's opinion of a post-injury wage of $350.00 per week averaged with a $600.00 post-injury wage. The $600.00 post-injury average weekly wage is found in the questionnaire that the claimant prepared for Mr. Hardin's evaluation. Claimant stated that he earned $15.00 per hour working forty plus hours per week as an auto mechanic from 1983 to 1988, prior to commencing working for the respondent. Ms. Terrill concluded in her testimony that the claimant has the skill and physical ability to perform auto mechanic work. Utilizing these weekly wage figures, the claimant's ability to earn comparable wages has been reduced by forty-five percent (45%). Pursuant to the Hughes formula giving equal weight to each of these factors, the claimant is entitled to a thirty-seven percent (37%) permanent partial general disability award based on work disability. Hughes v. Inland Container Corp., 247 Kan. 407, 799 P.2d 1011 (1990).

(2) The Appeals Board finds that the Kansas Workers Compensation Fund is not liable for any compensation benefits awarded in this case.

In order for the respondent to be relieved of liability for compensation awarded or be entitled to an apportionment of the award from the Kansas Workers Compensation Fund, the respondent has the burden to prove that it knowingly employed or retained a handicapped employee. K.S.A. 44-567(a)(1)(2)(b). A handicapped employee is one

affected with or subject to any physical or mental impairment, or both, whether congenital or due to an injury or disease of such character the impairment constitutes a handicap in obtaining or retaining employment. K.S.A. 44-566(b).

A stipulation has been entered into by the parties in this matter that June 27, 1991, is the date of accident appropriate for determining compensation benefits. The medical records and the evidentiary depositions of the treating physicians have established that the claimant was returned to work after he was seen by Boeing Central Medical on June 27, 1991, with temporary restrictions of no lifting over twenty (20) pounds, no bending or twisting, and no overhead work. Further, in reviewing the evidentiary record, it is unclear as to how many days the claimant actually worked between the date of his injury of June 27, 1991, and January 25, 1992, the date he was returned to work with permanent restrictions. The claimant testified he was off work for six (6) months and the evidentiary record indicates that he was paid temporary total disability benefits for twenty-seven (27) weeks. Dr. Lesko's medical records indicate the claimant was off work from July 22, 1991, until October 14, 1991. Dr. Zimmerman's medical records at Boeing Central Medical show him treating the claimant from October 14, 1991, until January 25, 1992, with referrals to Dr. Abay and Dr. Odulio. If the claimant did work between October 14, 1991, and January 25, 1992, the last time Dr. Zimmerman treated the claimant, it was only for a few days and he should have worked within his temporary restrictions.

Dr. Zimmerman testified that the claimant's original complaints involved an injury to the dorsal spine and later during his treatment in July 1991, he developed pain in his lumbar spinal area. He goes on to testify that the claimant would not have developed the chronic lumbar sacral sprain but for the chronic dorsal strain. He further testifies that the claimant's continued work activities after he was returned to work on January 25, 1992, aggravated both his dorsal and lumbar conditions and resulted in permanent impairment to these areas.

Dr. Ernest R. Schlachter, at the request of the Kansas Workers Compensation Fund, reviewed medical records of Dr. Lesko and Boeing Central Medical concerning treatment of the claimant. He also reviewed evidentiary depositions dated December 6, 1991, and September 24, 1993, of Dr. Zimmerman in relation to the claimant's medical treatment and the question of Fund liability. Dr. Schlachter rejected Dr. Zimmerman's opinion that the dorsal spine injury of the claimant caused the claimant's lumbar sprain in that the claimant protected his dorsal spine and overused his lumbar spine causing the lumbar sprain as not medically probable. It is Dr. Schlachter's opinion that there is absolutely no causal connection between the claimant's dorsal spine injury and his development of low back pain.

In this case, the Administrative Law Judge apportioned twenty-five percent (25%) of the award to the Kansas Workers Compensation Fund. She found that the respondent had met its burden of proof by filing a Form 88 on October 29, 1991, concerning the claimant's back injury. A finding was made that after the claimant returned to work, his work activities aggravated his low back condition. However, she followed neither the testimony of Dr. Zimmerman nor Dr. Schlachter in reference to Fund liability.

The Appeals Board finds the testimony of Dr. Schlachter in this instance to be the more credible and persuasive. It is more probable that the claimant's dorsal spine injury had no causal connection with his lumbar spine injury. Additionally, the Appeals Board does not agree that the evidentiary record demonstrates that after the claimant returned to work his work activities aggravated both his dorsal and lumbar chronic conditions. The

only evidence presented in the record to support this conclusion is Dr. Zimmerman's testimony. Dr. Zimmerman concludes that the claimant's continued work activities aggravated his dorsal and lumbar spine condition, even though Dr. Zimmerman had not treated or seen the claimant since he returned him to work on January 25, 1992, with permanent work restrictions. The Appeals Board is not persuaded by Dr. Zimmerman's opinion as to whether the claimant's work activities after January 25, 1992, aggravated his spinal conditions when he did not have an opportunity to examine the claimant in order to assess such aggravation.

Claimant's date of accident for calculating workers compensation benefits is June 27, 1991. The Appeals Board finds that there is no evidence presented by the respondent establishing that claimant had any pre-existing condition that affected either the dorsal or the lumbar spine. Therefore, the respondent has failed to meet its burden of proof that it knowingly employed or retained a handicapped employee.

AWARD

WHEREFORE, it is the finding, decision and order of the Appeals Board that the amended Award of Administrative Law Judge Shannon S. Krysl, dated December 17, 1993, is hereby modified and an Award is entered as follows:

AN AWARD OF COMPENSATION IS HEREBY ENTERED IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Anthony Lee, and against the respondent, Boeing Military Airplanes, and the insurance carrier, Aetna Casualty & Surety Company.

The claimant is entitled to 27 weeks of temporary total disability at the rate of $278.00 per week or $7,506.00 followed by 75.71 weeks at $43.19 per week or $3,269.91 through June 14, 1993, for a 7.5 percent permanent partial general body functional disability, making a total of $10,775.91.

Commencing June 15, 1993, the claimant is entitled to 312.29 weeks at the rate of $213.07 per week or $66,539.63 for a 37% permanent partial general body work disability, making a total award of $77,315.54.

As of April 29, 1994, there would be due and owing to the claimant 27 weeks of temporary total disability compensation at $278.00 per week in the sum of $7,506.00 plus 75.71 weeks permanent partial functional compensation at $43.19 in the sum of $3,269.91 plus 45.57 weeks permanent partial work disability compensation at $213.07 in the sum of $9,709.60 for a total due and owing of $20,485.51 which is ordered paid in one lump sum less any amounts previously paid. Thereafter, the remaining balance in the amount of $56,830.03 shall be paid at $213.07 per week for 266.72 weeks or until further order of the Director.

The claimant is entitled to unauthorized medical up to the statutory maximum of $350.00 upon proper presentation of expenses.

Future medical benefits will be awarded only upon proper application to and approval by the Director of the Division of Workers Compensation.

The claimant's attorney's fees are approved subject to the provisions of K.S.A. 44-536.

The fees necessary to defray the expenses of administration of the Workers Compensation Act are hereby assessed against the respondent to be paid direct as follows:

Alexander Reporting	
Deposition of Kenneth Dale Zimmerman, M.D.	$185.00
Deposition of Lawrence Richard Blaty, M.D.	$185.72
Deposition of Jerry D. Hardin	$260.40
Deposition of Kenneth Dale Zimmerman, M.D.	$125.00
Transcript of Stipulation	$20.00
Deposition of Karen C. Terrill	$333.60
Deposition of Paul Lesko, M.D.	$225.20
Deposition Services	
Transcript of Regular Hearing	$152.50
Deposition of Ernest R. Schlachter, M.D.	$154.60

IT IS SO ORDERED.

Dated this _____ day of April, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

cc: Michael L. Snider, 2628 S. Oliver, Suite 104, Wichita, Kansas 67210
Frederick L. Haag, 700 Fourth Financial Center, Wichita, Kansas 67202
Steven L. Foulston, PO Box 48128, Wichita, Kansas 67201-8128
Shannon S. Krysl, Administrative Law Judge
George Gomez, Director